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11/20/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Regarding: Patent Application of Hall et al.  
Appl. No. 09/172,577 -- Appeal No. 2002-1582  
Application Filing Date October 13, 1998 A.D.  
For INERT GAS BLANKET FOR PROTECTION FROM OXIDATION

BRIEF REPLY TO EXAMINER'S RESPONSE TO SECOND REMAND

Appeal from Group Art Unit 3682  
Primary Examiner Chong H. Kim  
Supervisory Patent Examiner David A. Bucci

Commissioner for Patents, Alexandria, VA 22313-1450:

Please consider this in reply to the 11/06/2003 Examiner's response (Paper No. 56). This paper is submitted in triplicate.

The declaration filed on June 24, 2002 (Paper No. 38) with an information disclosure statement that accompanied it would indeed dispose of any weight to the unsubstantiated contention of the Examiners that extended oil changes are viable with a technology other than the claimed invention, notably as pointed out in the claims 51 (20,000-mile limitation) & 52 (50,000-mile limitation). The "Sludge Pits" article reports that even Toyota cautions that a 7,500-mile oil-change interval may be insufficient, and that Popular Mechanics recommends a 3,000-mile oil-change interval.

The translation of Fujiyama serves to reinforce the position of the Appellants such as stated in the BRIEF FOR APPELLANT on page 13, third paragraph, page 14, second full paragraph, and the paragraph bridging pages 14-15, which are referenced later in the BRIEF. Further the translation shows that Fujiyama was concerned with precise temperature-control in the art of storage. In sum, Fujiyama is convincingly shown as nonanalogous, inapplicable art.

Even if a product were in the marketplace to extend the life of an oil in a working machine, no such product is seen to work as the claimed inert gas blanket, nor to the extent claimed. In reference to Paper No. 49, taking the assertions of the SUPERBAT advertising at face-value, they merely state that the engine, not the oil of the engine, can be protected for up to 50,000 miles. The SUPERBAT metal treatment is to be added at each oil change. As for any extension of an interval between oil changes, no data is provided, nor can this be taken as anything but mere puffery. If the oil change interval could be extended to, say, 20,000 or 50,000 miles, surely the advertisement would brag about it. Such is clearly irrelevant, nonenabling, inapplicable art.

Reversal of the Examiners is seen to be ever more in order.

Respectfully submitted,

Dated: Nov. 14, 2003 A.D.

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